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December 22, 2008

BY HAND

Jeff S. Jordan, Esq.
Supervisory Attorney
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 6118

Dear Mr. Jordan:

We are writing this letter on behalf of the Bob Roggio for Congress Committee and Alexander F. Smith, as treasurer, (collectively referred to as the "Respondents") in response to the Complaint filed in the above-referenced matter by the Jim Gerlach for Congress Committee (the "Complainant"). The facts do not support a reason to believe finding in this matter and the Complaint should be dismissed.

The Commission may find "reason to believe" only if a complaint sets forth sufficient specific facts, which, if proven true, would constitute a violation of the Federal Election Campaign Act (the "Act"). See 11 C.F.R. § 111.4(a), (d). Unwarranted legal conclusions from asserted facts or mere speculation will not be accepted as true. See MUR 4960, Commissioners Mason, Sandstrom, Smith and Thomas, Statement of Reasons (Dec. 21, 2001). Moreover, the Commission will dismiss a complaint when the allegations are refuted with sufficiently compelling evidence. See *id.*

Here, the Complainant alleges that Respondents failed to include a disclaimer on three different forms of written communication: a bumper sticker, a lawn sign, and a billboard. Each form of communication is addressed in turn below:

First, the Commission's regulations specifically provide that the disclaimer requirement does not apply to bumper stickers. See 11 C.F.R. § 110.11(f)(1)(i). Failure to include a disclaimer on a bumper sticker does not give rise to a violation of federal campaign finance law.

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Second, the lawn sign referenced in the Complaint was not paid for or authorized by Respondents. Respondents had no knowledge of the lawn sign before receiving the Complaint. The Complaint therefore describes activity unrelated to Respondents. Respondents themselves did not pay for or authorize a lawn sign that did not include the required disclaimer. The facts suggest only that an unidentified individual paid for a sign that may not have been in compliance with the Commission's regulation.

Third, Respondents submitted to the Committee's vendor a final design for the billboard referenced in the Complaint on October 14, 2008. The billboard design included in the lower right-hand corner the disclaimer required by 11 C.F.R. § 110.11(b)(1). See Exhibit A. Due to a printing and production error unrelated to the Respondents, the actual billboards included a large black box that covered the "paid for by" disclaimer and a portion of the billboard's text. See Exhibit B. Respondents first became aware of the error on October 24, 2008 and immediately contacted the Committee's vendor. The billboards without the disclaimer were taken down on October 27 and 28 and replaced with billboards that included the disclaimer. Because Respondents ordered and approved a billboard that complied with the Commission's regulations, took immediate steps to correct the vendor's error, and made every effort throughout the campaign to ensure that all of its communications were in compliance with the disclaimer requirements, the facts do not support finding reason to believe that Respondents acted contrary to the Commission's regulations. In the alternative, the Commission should use its discretion to dismiss this claim in its entirety.

In sum, the Complaint does not allege any facts that would describe a violation of federal campaign finance law on the part of the Respondents. Pursuant to 11 C.F.R. § 111.4(d), Respondents respectfully request that the Commission immediately dismiss the Complaint and take no further action.

Very truly yours,



Brian G. Svoboda
Kate Sawyer Keane

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Bob Roggio Democrat for Congress

**Business Leader
Veteran
Family Man**



www.BobRoggioForCongress.com



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